

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 JULIE M. CARDOT,

9 Plaintiff,

10 v.

11 MICHAEL J. ASTRUE, Commissioner of the  
Social Security Administration,

12 Defendant.

Case No. C11-5325-JLR-BAT

**SECOND REPORT AND  
RECOMMENDATION**

13 This is the second time this Court has addressed this matter. Initially, Julie M. Cardot  
14 brought an action seeking review of the denial of her application for disability insurance benefits  
15 by the Commissioner of the Social Security Administration. Dkt. 3. The Commissioner then  
16 filed a motion to dismiss this case for lack of subject matter jurisdiction and for failure to state a  
17 claim on which relief may be granted. This Court recommended Ms. Cardot's claims under 42  
18 U.S.C. § 405(g) be dismissed and that the Commissioner be directed to file an answer to Ms.  
19 Cardot's constitutional claim. Dkt. 14. On September 9, 2007, the Honorable James L. Robart  
20 entered an order adopting this recommendation. Dkt. 15.

21 On September 19, 2011, the parties filed a stipulated motion to remand the matter  
22 pursuant to sentence four of 42 U.S.C. § 405(g), for further administrative proceedings. Dkt. 16.  
23 Specifically, the parties stipulate that on remand, the Administrative Law Judge shall send Ms.

1 Cardot's counsel a copy of her current and prior files, give counsel adequate time to review the  
2 file, present argument, and submit any new or material evidence. The ALJ will review any new  
3 submissions and determine whether res judicata applies or a de novo review of the evidence is  
4 appropriate. The parties agree that reasonable attorney fees should be awarded, upon proper  
5 application, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

6 Having reviewed the pleadings and the administrative record, the Court recommends the  
7 Court grant the stipulated motion and that the case be **REVERSED** and **REMANDED** for  
8 further administrative proceedings as set forth above. As the parties stipulate to remand, the  
9 Court recommends if this recommendation is adopted, that it be approved immediately. A  
10 proposed order accompanies this Report and Recommendation.

11 DATED this 20th day of September, 2011.

12  
13 

14 

---

BRIAN A. TSUCHIDA  
15 United States Magistrate Judge  
16  
17  
18  
19  
20  
21  
22  
23